

REMARKS/ARGUMENTS

Claims 7 to 15 are pending in the subject application. Claims 1-6 have been previously cancelled without prejudice. Independent claim 7 has been amended to recite additional features supported by paragraphs [0009] and [0010] of the English translation of the specification. New claims 13 - 15 have been added and are supported by the original application including Figs. 1 and 2. The disclosure has been amended to remove minor informalities. No new matter has been added. Reconsideration of the subject application in view of the above amendments and the following remarks is respectfully requested.

The Examiner indicated that the certified copy of the German Priority Application has not been received. A certified copy of the German Priority Application 10 2004003280.7 is being submitted under a separately letter.

The disclosure has been objected to for containing informalities indicated on page 2 of the Office Action. The subject objection has been overcome in view of the amendments to the specification. Withdrawal of the objection is thus respectfully requested.

Claims 7 to 12 have been rejected under 35 U.S.C. § 102(b) as being anticipated by DE 9203873 (hereinafter DE '573). This rejection is respectfully traversed.

Independent claim 7 recites that “the central attachment hole is spaced away from the longitudinal upper edge by a distance of about 28 mm, such that when the upper edge of the housing is mounted flush with a top edge of a door, the central attachment hole is about 28 mm from the top edge of the door” and that “the attachment holes are spaced from one another by about 19 mm.” For reasons elaborated below, applicants submit that the above claim features are not taught in DE '573.

DE '573 discloses a door closer having a housing 21. The housing 21 has two flanges 20 for attaching the door closer to a door frame. Fig. 1 of DE '573 shows that each flange 20 is formed with holes.

DE '573 however does not teach or suggest that each of the holes in the flange 20 are "attachment holes for receiving attachment components". Even if the holes in DE '573 are considered to be attachment holes --which applicants do not believe to be true--, DE '573 fails to disclose anything about distances from the central hole to the upper edge of the housing. Nor does DE '573 teach the distance between the attachment holes as explicitly recited in independent claim 7. Accordingly, DE '573 can not be considered to disclose the claimed invention.

In view of the above, independent claim 7 and its dependent claims 8 to 12 each patentably distinguish over the cited art and are thus allowable. Withdrawal of the above claim rejections is respectfully requested.

Moreover, new claim 13 has been added and recites that "the door closer is mountable to a door using only two of the three attachment holes in each of the attaching flanges for universal installation of the door closer." In addition, new claims 14 and 15 recite, respectively, "the door closer is mountable to a door using the lower and central attachment holes and not the upper attachment holes in the attaching flanges" and "the door closer is mountable to a door using the upper and central attachment holes and not the lower attachment holes in the attaching flanges." Support for the above claim features can be found at paragraph [0010] and Figs. 1 and 3 of the application as originally filed.

The above claim features recited in any of the new claims 13-15 are not taught by DE '573. DE '573 is silent about which holes on the flanges 20 are used for mounting the housing

21 onto a door frame, much less “using only two of the three attachment holes in each of the attaching flanges for universal installation of the door closer”, as now recited in new claim 13. Therefore, new claims 13 to 15 each patentably distinguish over the cited art and are thus allowable for at least this additional reason.

Based on all of the above, it is respectfully submitted that the present application is now in proper condition for allowance. Prompt and favorable action to this effect and early passing of this application to issue are respectfully solicited. Should the Examiner have any comments, questions, suggestions or objections, the Examiner is respectfully requested to telephone the undersigned in order to facilitate reaching a resolution of any outstanding issues.

No fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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